

## **Item SP05-01 Response Form**

**Title:** Jury Instructions: Rules and Standard Concerning Approval of New Judicial Council Jury Instructions (amend Cal. Rules of Court, rule 229 and rule 855; repeal Cal. Std. Jud. Admin. 5.)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

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Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
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San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Friday, May 20, 2005
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.  
All comments will become part of the public record of the council's action..*

Title	Jury Instructions: Rules and Standard Concerning Approval of New Judicial Council Jury Instructions (amend Cal. Rules of Court, rule 229 and rule 855; repeal Cal. Std. Jud. Admin. 5.)
Summary	The amendments to rules 229 and 855 and the repeal of section 5 of the California Standards of Judicial Administration would withdraw the council's endorsement of CALJIC and endorse the new Judicial Council criminal jury instructions for use in California courts.
Source	Administrative Office of the Courts Task Force on Jury Instructions, Criminal Subcommittee
Staff	Robin Seeley, Attorney 415-865-7710, robin.seeley@jud.ca.gov
Discussion	<p>The proposed amendments to rule 229 and rule 855, as well as the repeal of Cal. Std. Jud. Admin. 5 would provide for the Judicial Council's endorsement of the new Judicial Council criminal jury instructions for use in California. The Task Force on Jury Instructions will propose Judicial Council approval of new Judicial Council criminal jury instructions later this year.</p> <p>Currently, rule 229 references the "criminal jury instructions approved by the Committee on Standard Jury Instructions, Criminal, of the Superior Court of Los Angeles County" as the "[a]pproved jury instructions" to which the rule applies. That reference would be deleted to allow for council approval of the new Judicial Council criminal jury instructions.</p> <p>Rule 855 currently "strongly encourage[s]" the use of the Judicial Council instructions, but only specifies the civil instructions. The word "civil" would be deleted so that the rule encompasses all Judicial Council instructions, criminal and civil.</p> <p>The sole purpose of Cal. Std. Jud. Admin. 5, is to endorse the use of "California Jury Instructions – Criminal (CALJIC)." This entire standard would be deleted so that it does not conflict with amended rules 229 and 855 or with Judicial Council approval of the new criminal jury instructions.</p>
	Attachments

Rule 229 of the California Rules of Court would be amended effective January 1, 2006, to read:

**Rule 229. Proposed jury instructions**

**(a) [Application]**

(1) This rule applies to proposed jury instructions that a party submits to the court, including:

(A) “Approved jury instructions,” meaning jury instructions approved by the Judicial Council of California ~~or criminal jury instructions approved by the Committee on Standard Jury Instructions, Criminal, of the Superior Court of Los Angeles County;~~ and

(B) “Special jury instructions,” meaning instructions from other sources, those specially prepared by the party, or approved instructions that have been substantially modified by the party.

(2) This rule does not apply to the form or format of the instructions presented to the jury, which is a matter left to the discretion of the court.

**(b)-(e) \*\*\***

Rule 855 of the California Rules of Court would be amended effective January 1, 2006, to read:

**Rule 855. Judicial Council Jury Instructions**

**(a)-(d) \*\*\***

**(e) [Use of instructions]** Use of the Judicial Council instructions is strongly encouraged. If the latest edition of the ~~civil~~ jury instructions approved by the Judicial Council contains an instruction applicable to a case and the trial judge determines that the jury should be instructed on the subject, it is recommended that the judge use the Judicial Council instruction unless he or she finds that a different instruction would more accurately state the law and be understood by jurors. Whenever the latest edition of the Judicial Council ~~civil~~ jury instructions does not contain an instruction on a subject on which the trial judge determines that the jury should be instructed, or when a Judicial Council instruction cannot be modified to submit the issue properly, the instruction given on that subject should be accurate, brief, understandable, impartial, and free from argument.

California Standard of Judicial Administration would be repealed effective January 1, 2006:

1 ~~Sec. 5. Use of California Jury Instructions—Criminal (CALJIC)~~

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3 ~~Whenever the latest edition of California Jury Instructions—Criminal (CALJIC) contains an~~  
4 ~~instruction applicable to a case and the trial judge determines that the jury should be instructed~~  
5 ~~on the subject, it is recommended that the judge use the CALJIC instruction unless he or she~~  
6 ~~finds that a different instruction would more adequately, accurately, and clearly state the law.~~  
7 ~~Whenever the latest edition of CALJIC does not contain an instruction on a subject upon which~~  
8 ~~the trial judge determines that the jury should be instructed, or when a CALJIC instruction~~  
9 ~~cannot be modified to submit the issue properly, the instruction given on that subject should be~~  
10 ~~accurate, brief, understandable, impartial, and free from argument. When an instruction~~  
11 ~~requested by a party is a modified CALJIC instruction, the party should indicate therein, by use~~  
12 ~~of parentheses or other appropriate means, the respect in which it is modified. A trial judge in~~  
13 ~~considering instructions to the jury shall give no less consideration to those submitted by the~~  
14 ~~attorneys for the respective parties than to those contained in the latest edition of California Jury~~  
15 ~~Instructions—Criminal (CALJIC).~~